

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Home and Community-Based
Services Waivers—New Opportunities
Waiver—Complex Care Services**

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

Medicaid Eligibility

Children's Health Insurance Program Reauthorization Act
Option for Lawfully Resident Children
(LAC 50:III.2329 and 2523)

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will increase programmatic costs to the state by approximately \$125,373 for FY 18-19, \$1,114,345 for FY 19-20 and \$1,646,113 for FY 20-21. In FY 18-19, the state match requirements shall be met with New Opportunities Waiver (NOW) Fund dollars and utilized to secure federal match to provide the add-on payments for complex care. In FY 19-20 and FY 20-21, the state match requirements shall be met through the Department's budget appropriation from the state general fund. It is anticipated that \$1,296 (\$648 SGF and \$648 FED) will be expended in FY 18-19 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 64.67 percent in FY 18-19 and 65.79 percent in FY 19-20 and FY 20-21.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$228,953 for FY 18-19, \$2,143,021 for FY 19-20 and \$3,165,676 for FY 20-21. The proposed rule will also increase revenue collections by approximately \$125,373 in FY 18-19 from the NOW Fund. It is anticipated that \$648 will be collected in FY 18-19 for the federal share of the expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 64.67 percent in FY 18-19 and 65.79 percent in FY 19-20 and FY 20-21.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed Rule continues the provisions of the October 20, 2018 Emergency Rule which amended the provisions governing the New Opportunities Waiver (NOW) in order to add complex care to the home and community-based services covered under the NOW, and to align the minimum age requirement for participation with the waiver amendment approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). It is anticipated that implementation of this proposed Rule will be beneficial to NOW participants in need of complex medical and behavioral health services. The proposed rule also benefits younger recipients by reducing the participant age limit to align with the approved waiver. This proposed rule will be beneficial to providers of complex care services as a result of the additional reimbursement for these services. It is anticipated that implementation of this proposed rule will increase NOW expenditures by approximately \$353,030 for FY 18-19, \$3,257,366 for FY 19-20 and \$4,811,789 for FY 20-21 due to the additional payments to providers of complex care services.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule has no known effect on competition and employment.

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The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:III.2329 and to repromulgate the provisions of the June 20, 1998 Rule governing Medicaid Eligibility for non-citizens in order to adopt this Rule into LAC 50:III.2523, pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule which adopted provisions to provide regular Medicaid coverage to optional qualified aliens (hereafter referred to as "qualified non-citizens"), who were in the United States prior to August 22, 1996, who meet all eligibility criteria and requiring a five-year waiting period for qualified non-citizens, entering the United States on or after August 22, 1996 (*Louisiana Register*, Volume 24, Number 6).

The Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009 provides states with the option to eliminate the five-year waiting period and provide coverage under the Medical Assistance Program to a new eligibility group consisting of children up to age 19 who are lawfully residing in the United States, and for which an enhanced federal medical assistance percentage (FMAP) rate is available.

The Department of Health, Bureau of Health Services Financing hereby amends the provisions governing Medicaid eligibility to adopt the CHIPRA option which will eliminate the five-year waiting period and provide coverage to lawfully residing children. This proposed Rule will also repromulgate the provisions of the June 20, 1998 Rule governing Medicaid eligibility for qualified non-citizens to ensure that these provisions are promulgated in the *Louisiana Administrative Code* in a clear and concise manner.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

**Chapter 23. Eligibility Groups and Medicaid
Programs**

§2329. Lawfully Resident Children

A. The Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009, Public Law No. 111-3, established provisions which allow states the option of providing Medicaid and Children's Health Insurance Program (CHIP) coverage to children up to age 19 who are lawfully residing in the United States, including those within their first five years of having certain legal status.

B. The department shall utilize the CHIPRA Option under P.L. 111-3 provisions for the enrollment of children, up to age 19, who are lawfully residing in the United States.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

Chapter 25. Eligibility Factors

§2523. Citizenship

A. Qualified Non-Citizens

1. The department hereby adopts criteria for the coverage of qualified non-citizens pursuant to the provisions of §401 of the Personal and Work Opportunity Act of 1996 (P.L. 104-193) as amended by the Balanced Budget Act of 1997 (P.L. 105-33).

2. The department elects to provide regular Medicaid coverage to optional qualified non-citizens who were in the United States prior to August 22, 1996, who meet all eligibility criteria.

3. Qualified non-citizens entering the United States on or after August 22, 1996 are not eligible for Medicaid coverage for five years after entry into the United States.

a. Such qualified non-citizens are eligible for emergency services only.

b. Upon expiration of the five-year period, coverage for regular Medicaid services shall be considered if the qualified non-citizen meets all eligibility criteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it eliminates the waiting period for coverage for lawfully residing children who meet eligibility criteria.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it reduces the financial burden on families with lawfully residing children in need of healthcare services by eliminating the waiting period for coverage.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service and no direct or indirect cost to the provider to provide the same level of service. These provisions will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, November 29, 2018 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medicaid Eligibility Children's Health Insurance Program Reauthorization Act—Option for Lawfully Resident Children

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic net savings of \$128,303 for FY 18-19, \$21,909 for FY 19-20 and net costs of \$140,871 for FY 20-21. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 18-19 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 64.67 percent in FY 18-19, 65.79 percent in FYs 19-20 and 20-21, and an enhanced FMAP rate of 98.27 percent in FY 18-19 and 90.43 percent in FYs 19-20 and 20-21 for the projected CHIP population.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$105,953 for FY 18-19 and increase revenue collections by approximately \$1,065,117 for FY 20-21 and \$2,603,273 for FY 20-21. It is anticipated that \$270 will be expended in FY 18-19 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 64.67 percent in FY 18-19, 65.79 percent in FYs 19-20 and 20-21, and an enhanced FMAP rate of 98.27 percent in FY 18-19 and 90.43 percent in FYs 19-20 and 20-21 for the projected CHIP population.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing Medicaid eligibility to allow for the option to eliminate the five-year waiting period for Medicaid coverage of lawfully residing children in compliance with the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA). The proposed rule also repromulgates the provisions of the June 20, 1998 Rule governing Medicaid eligibility for qualified non-citizens to ensure that these provisions are promulgated in the Louisiana Administrative Code in a clear and concise

manner. This proposed rule will be beneficial to non-citizen recipients as it eliminates the five-year waiting period for providing Medicaid coverage to lawfully residing children. There are no anticipated economic costs or benefits to providers since this proposed rule does not change payments. It is anticipated that implementation of this proposed rule will result in a net reduction in Medicaid programmatic expenditures by approximately \$234,796 for FY 18-19 and a net increase in expenditures by approximately \$1,043,208 for FY 19-20 and \$2,744,144 for FY 20-21 due to the transition of children from fee-for-service to managed care at the enhanced CHIP match rate. The reduction in FY 19-20 is dependent upon the phase in of the total population estimated to be eligible under the CHIPRA option (37 per month). To the extent the take up rate is faster than projected, the savings projected in FY 19 would decrease.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

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Evan Brasseaux
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Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Nurse Licensure Compact (LAC 48:I.Chapter 88)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 48:I.Chapter 88 as authorized by R.S. 36:254 and R.S. 37:1018-1020. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 577 of the 2018 Regular Session of the Louisiana Legislature enacted R.S. 37:1018-1020, which directed the Department of Health (LDH) to establish provisions governing the Nurse Licensure Compact, a multi-state compact for nurses to obtain multi-state license privileges, in order to decrease redundancies in the consideration and issuance of nursing licenses, and to provide an opportunity for interstate practice by nurses who meet LDH's uniform licensure requirements. In compliance with the requirements of Act 577, the Department of Health, Bureau of Health Services Financing proposes to adopt provisions governing the Nurse Licensure Compact.

Title 48.

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 88. Nurse Licensure Compact

§8801. Definitions

Department—the Louisiana Department of Health (LDH), the department.

Health Standards Section (HSS)—the section in LDH responsible for licensing health care facilities and agencies, certifying facilities and agencies applying for participation in the Medicaid (title XIX) and Medicare (title XVIII) programs, and conducting surveys and inspections.

Home State—the party state which is the nurse's primary state of residence.

Licensing Board—a party state's regulatory body responsible for issuing nurse licenses.

Multi-State License—a license to practice as a registered nurse (RN) or a licensed practical nurse/licensed vocational nurse (LPN/LVN) issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multi-state licensure privilege.

Multi-State Licensure Privilege—a legal authorization associated with a multistate license permitting the practice of nursing as either an RN or LPN/LVN in a remote state.

Nurse—registered nurse (RN) or licensed practical nurse/licensed vocational nurse (LPN/LVN), as defined by each party state's practice laws.

Nurse Licensure Compact (NLC)—Part V of Chapter 11 of Title 37 of the Louisiana Revised Statutes of 1950, comprised of R.S. 37:1018 through 1020.

Party State—any state that has adopted the Nurse Licensure Compact.

Remote State—a party state other than the home state.

Single-State License—a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multi-state licensure privilege to practice in any other party state.

State—a state, territory or possession of the United States and the District of Columbia.

State Practice Laws—a party state's laws, rules and regulations that govern the practice of nursing, define the scope of nursing practice and create the methods and grounds for imposing discipline. State practice laws do not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1018-1020.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

§8803. General Administration

A. Pursuant to R.S. 37:1018-1020 et seq., all health care entities licensed and/or certified by the Health Standards Section of LDH including, but not limited to, those specified in §8803.B.1-25 shall:

1. register with the National Council of State Boards of Nursing's (NCSBN) Nursys e-Notify system; and

2. provide required nurse data for collection of aggregate data from employees on the number and geographic representation of registered nurses (RNs) and licensed practical nurses/licensed vocational nurses (LPNs/LVNs) employed in Louisiana practicing pursuant to a multi-state or single state license, as determined by the Louisiana State Board of Nursing (LSBN) and the Louisiana State Board of Practical Nurse Examiners (LSBPNE).

B. Once registered, the licensed facility/agency, the LSBN and the LSBPNE shall have real-time access to nurse licensure verification including expirations, upcoming renewals and discipline from all nurse licensure compact states. The real-time notifications shall be delivered to employer inboxes automatically and immediately available to the requisite nursing boards prior to an RN or LPN/LVN furnishing any such services in one or more of the following licensed and/or certified health care facilities and agencies: